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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,867	12/28/2000	Steven Alan Dunham	5934-01-EMA	5272

7590 03/19/2002
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EXAMINER

TAYLOR, JANELLE

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 03/19/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,867

Applicant(s)

DUNHAM ET AL.

Examiner

Janell Cleveland Taylor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 2, 4-24 and 36, drawn to processes for identifying and characterizing mutations.

Group 2, claim(s) 3 and 25-30, drawn to proteins and mutations of the GyrA of *Neisseria gonorrhoeae*.

Group 3, claim(s) 31-35, drawn to proteins and mutations of the FabI of *N.gonorrhoeae*.

2. The inventions listed as Groups I and II, III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: group 1 is drawn to processes for identifying and characterizing mutations, which are not required in order to obtain the products found in groups II and III. Also, groups II and III lack the same special technical feature because they are drawn to the protein isolates of different genes.

3. This application contains claims products which contain the recitation of multiple, individual amino acid sequence substitutions. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The groups are as follows:

Mutations in GyrA: Asp90 to Glu, Ser91 to Cys, Asp95 to His, Glu161 to Gly, Glu161 to Lys, Asn65 to His, Asp80 to Gly, and Glu62 to Lys. Applicant must chose

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ONE of the previously listed mutations. Also included in these groups are all the individual amino acid residues of claim 27-30 (ONE of the amino acid species of the claims must be chosen.). Also included are the strains of claim 28. (Please pick the strain of claim 28 which corresponds with the amino acid residue of the other claims in this group, and identify it as such in the election.)

Mutations in FabI: each individual amino acid sequence residue found in claims 31-35 is considered a separate group. Also included are the strains of claim 32. (Please pick the strain of claim 32 which corresponds with the amino acid residue of the other claims in this group, and identify it as such in the election.)

4. The group listed above do not relate to a single general inventive concept under PCT Rule 13.1 because the groups lack the same or corresponding special technical features for the following reasons: each group represents a different amino acid substitution which is independent of the others, and may be present one without the other.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janell Taylor Cleveland whose telephone number is 703-305-0273. The examiner can normally be reached on M-F 9-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 703-308-1152. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Janell Taylor Cleveland
Examiner
Art Unit 1634



W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

March 12, 2002